

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.1057 OF 2005
WITH
CIVIL APPLICATION NO. 1242 OF 2005

Farid Admed. ...Appellant.
Vs.
Ramji Sahadeo Yadav & Ors. ...Respondents.

....
Mr. N. P. Bhavsar for the Appellant.
Mr. G. C. Singh for Respondent No.1.
Mr. P.M. Havnur for Respondent No.3.

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CORAM : DR. D.Y. CHANDRACHUD, J.

November 21, 2005.

P.C.:

The Learned Trial Judge is correct in observing, for the purposes of determining the application for the grant of interim relief in the Notice of Motion that the Appellant has failed to demonstrate his possession of the suit property which comprises of 1000 sq.yards in Survey No.49, Hissa No.2o (part) corresponding City Survey No.246 and 246/1 to 10 of village Oshiwara. The foundation of the claim of the Appellant is an alleged Deed of Assignment dated 29th December 1969 by which the mother of the Appellant has sold, assigned and transferred her lease hold rights under the registered lease dated 9th June 1966 in favour of the Appellant. The Lease Deed dated 9th June 1966 was

not forthcoming, but what is sought to be stated is that the purported Deed of Assignment of 29th December 1969 was registered almost 34 years thereafter in the year 2003. The Deed which is on a Stamp Paper of Rs.3 contained an endorsement to the effect that the annexure is not registered. There is no annexure to the copy which has been produced before the Court. The Court Commissioner who was appointed by the Learned Trial Judge stated in his report that there are about 70 structures standing on the plot of land which is the subject matter of the suit. The Appellant did not produce any documentary material to disclose as to who is in possession of those structures, whether those structures were assessed by the Municipal Corporation and when those structures were constructed. In these circumstances, the case of the Appellant that he is in possession of land admeasuring 1000 square yards was not worthy of credence. On a prima facie evaluation at the interim stage, the Learned Trial Judge is not in error. The appeal is dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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